

LD3444813

SENATE BILL NO. 811

Offered January 18, 1995

A BILL to amend and reenact § 63.1-252.1 of the Code of Virginia, as it is currently effective and as it may become effective, relating to administrative support orders.

Patrons—Robb, Bell, Calhoun, Chichester, Miller, K.G., Norment, Potts, Stolle, Stosch, Wampler and Woods; Delegates: Callahan, Dudley, Fisher, Griffith, Hargrove, Katzen, Kidd, Kilgore, May, Orrock, Purkey, Reynolds, Ruff, Sherwood, Tata, Wagner, Wardrup and Way

Referred to the Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-252.1 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:

§ 63.1-252.1. (For effective date - See note) Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a responsible person whose support debt has accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such obligation may be created by a court order for support of a child or child and spouse or decree of divorce ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for the support of any dependent child or children and their caretaker. *The administrative support order shall provide that support shall continue to be paid for any child who is (i) a full-time high school student, (ii) not self-supporting and (iii) living in the home of the parent seeking or receiving child support, until such child reaches the age of nineteen or graduates from high school, whichever comes first.* The Commissioner shall initiate proceedings by issuing notice containing the administrative support order which shall become effective unless timely contested. The notice shall be served upon the debtor (i) in accordance with the provisions of § 8.01-296, § 8.01-327 or § 8.01-329 or (ii) by certified mail, return receipt requested, or service may be waived. A copy of the notice shall be sent to the obligee by first-class mail upon service of the notice. The notice shall include the following:

1. A statement of the support debt or obligation accrued or accruing and the basis and authority under which the assessment of the debt or obligation was made;

2. A statement of the name of the child or children and caretaker for whom support is being sought;

3. *A statement that support shall continue to be paid for any child who is (i) a full-time high school student, (ii) not self-supporting and (iii) living in the home of the parent seeking or receiving child support, until such child reaches the age of nineteen or graduates from high school, whichever comes first;*

4. A demand for immediate payment of the support debt or obligation or, in the alternative, a demand that the debtor file an answer with the Commissioner within ten days of the date of service of the notice stating his defenses to liability;

5. A statement of the name and address of the person to whom the answer is to be filed;

6. A statement that if no answer is made on or before ten days from the date of service of the notice, the administrative support order shall be final and enforceable, and the support debt shall be assessed and determined subject to computation, and is subject to collection action;

7. A statement that the property of the debtor will be subject to lien and foreclosure, distraint, seizure and sale or an order to withhold and deliver or mandatory withholding of earnings;

8. A statement that the obligor shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage may be required for the debtor's dependent children if available at reasonable cost as defined in § 63.1-250;

9. A statement of each party's right to appeal and the procedures applicable to appeals from the decision of the Commissioner;

10. A statement that the obligor's income shall be immediately withheld to comply with this order unless the obligee, or the Department of Social Services, if the obligee is receiving public assistance, and obligor agree to an alternative arrangement;

11. A statement that any determination of a support obligation under this section creates a judgment by operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

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60 44/2. A statement that the obligor shall give the Department written notice of any change in the
61 obligor's address within thirty days of the change of address; and

62 42/3. A statement that the obligor shall keep the Department informed of the name and address of
63 the obligor's current employer.

64 If no answer is received by the Commissioner within ten days of the date of service or acceptance,
65 the administrative support order shall be as provided in the notice. The Commissioner may initiate
66 collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20.
67 If the debtor, within ten days of the date of service of the notice, files an answer, with the
68 Commissioner alleging defenses to the liability imposed pursuant to § 63.1-251, the debtor shall have the
69 right to an administrative hearing.

70 Any changes in the amount of the administrative order must be made pursuant to this section. In no
71 event shall an administrative hearing alter or amend the amount or terms of any court order for support
72 or decree of divorce ordering support. No support order may be retroactively modified, but may be
73 modified with respect to any period during which there is a pending petition for modification, but only
74 from the date that notice of such petition has been given to the responding party. The existence of an
75 administrative order shall not preclude either an obligor or obligee from commencing appropriate
76 proceedings in a juvenile and domestic relations district court or a circuit court.

77 § 63.1-252.1. (Delayed effective date - See notes) Notice of administrative support order; contents;
78 hearing; modification.

79 The Commissioner may proceed against a responsible person whose support debt has accrued or is
80 accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation.
81 Such obligation may be created by a court order for support of a child or child and spouse or decree of
82 divorce ordering support of a child or child and spouse. In the absence of such a court order or decree
83 of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support
84 debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for
85 the support of any dependent child or children and their caretaker. *The administrative support order*
86 *shall provide that support shall continue to be paid for any child who is (i) a full-time high school*
87 *student, (ii) not self-supporting and (iii) living in the home of the parent seeking or receiving child*
88 *support, until such child reaches the age of nineteen or graduates from high school, whichever comes*
89 *first.* The Commissioner shall initiate proceedings by issuing notice containing the administrative support
90 order which shall become effective unless timely contested. The notice shall be served upon the debtor
91 (i) in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or (ii) by certified mail,
92 return receipt requested, or service may be waived. A copy of the notice shall be sent to the obligee by
93 first-class mail upon service of the notice. The notice shall include the following:

94 1. A statement of the support debt or obligation accrued or accruing and the basis and authority
95 under which the assessment of the debt or obligation was made;

96 2. A statement of the name of the child or children and caretaker for whom support is being sought;

97 3. *A statement that support shall continue to be paid for any child who is (i) a full-time high school*
98 *student, (ii) not self-supporting and (iii) living in the home of the parent seeking or receiving child*
99 *support, until such child reaches the age of nineteen or graduates from high school, whichever comes*
100 *first.*

101 4. A demand for immediate payment of the support debt or obligation or in the alternative, a demand
102 that the debtor file an answer with the Commissioner within ten days of the date of service of the notice
103 stating his defenses to liability;

104 45. A statement of the name and address of the person to whom the answer is to be filed;

105 56. A statement that if no answer is made on or before ten days from the date of service of the
106 notice, the administrative support order shall be final and enforceable, and the support debt shall be
107 assessed and determined subject to computation, and is subject to collection action;

108 67. A statement that the property of the debtor will be subject to lien and foreclosure, distraint,
109 seizure and sale or an order to withhold and deliver or mandatory withholding of earnings;

110 78. A statement that the obligor shall keep the Department informed regarding access to health
111 insurance coverage and health insurance policy information and a statement that health care coverage
112 may be required for the debtor's dependent children if available at reasonable cost as defined in
113 § 63.1-250;

114 89. A statement of each party's right to appeal and the procedures applicable to appeals from the
115 decision of the Commissioner;

116 910. A statement that the obligor's income shall be immediately withheld to comply with this order
117 unless the obligee, or the Department of Social Services, if the obligee is receiving public assistance,
118 and obligor agree to an alternative arrangement;

119 40/11. A statement that any determination of a support obligation under this section creates a
120 judgment by operation of law and as such is entitled to full faith and credit in any other state or
121 jurisdiction;

122 ~~11~~2. A statement that the obligor shall give the Department written notice of any change in the
123 obligor's address within thirty days of the change of address; and

124 ~~12~~3. A statement that the obligor shall keep the Department informed of the name and address of
125 the obligor's current employer.

126 If no answer is received by the Commissioner within ten days of the date of service or acceptance,
127 the administrative support order shall be as provided in the notice. The Commissioner may initiate
128 collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20.
129 If the debtor, within ten days of the date of service of the notice, files an answer, with the
130 Commissioner alleging defenses to the liability imposed pursuant to § 63.1-251, the debtor shall have the
131 right to an administrative hearing.

132 Any changes in the amount of the administrative order must be made pursuant to this section. In no
133 event shall an administrative hearing alter or amend the amount or terms of any court order for support
134 or decree of divorce ordering support. No support order may be retroactively modified, but may be
135 modified with respect to any period during which there is a pending petition for modification, but only
136 from the date that notice of such petition has been given to the responding party. The existence of an
137 administrative order shall not preclude either an obligor or obligee from commencing appropriate
138 proceedings in a family court.

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